

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 375 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SARABHAI CHEMICALS

Versus

NATWARLAL NATHALAL RANA

Appearance:

MR KAUSHAL THAKKAR for Petitioner

None present for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 30/08/96

ORAL JUDGMENT

Heard learned counsel for the petitioner.
Challenge is made by the petitioner to the Award of the Labour Court, Baroda, dated 30th September 1983, in Ref. (LCV) No.164 of 1982.

2. The workman has raised an industrial dispute in the matter of his termination of service. Under the

impugned Award, the Tribunal has ordered for reinstatement of the petitioner and 75% of the backwages with other consequential benefits. The termination of services has been made of the workman after holding domestic inquiry. Before the Labour Court, the workman has not challenged the legality of the domestic inquiry held against him. Both the parties have not produced any evidence before the Labour Court. The Tribunal has interfered with the punishment awarded to the workman though the workman had admitted to carry with him two small tubes, the cost of which is trifling amount. For such a trifling amount, the penalty of termination given to the petitioner was held to be inhumane and cruel. The approach of the Tribunal in the matter does not seem to be correct as it is not the cost of the goods which have been stolen by the petitioner is material, but it is his misconduct which is material. In a domestic inquiry, misconduct of the workman has been proved and that inquiry has not been questioned. The finding which has been given by the Inquiry Officer has to be accepted. The workman has not pleaded it to be a case of victimization, but the Tribunal has power to go on the question whether the penalty given to the workman for the proved misconduct is proportionate to the guilt or not. But while doing so, the Tribunal should have given some other punishment if the penalty of termination was considered to be excessive or harsh. But the question which arises for consideration is whether this Court should interfere in the matter?

3. The learned counsel for the petitioner contended that at least there was no justification whatsoever to award the backwages to the workmen to the extent of 75%, in case of theft committed by the workman.

4. Though I find some justification in this contention of the learned counsel for the petitioner, but taking into consideration the fact that the workman has not been given 100% backwages and this matter pertains to the year 1983, and the workman has already been reinstated in the services and the petitioner has not brought on record any material to show that for all these years, his work was not satisfactory or he has repeated the misconduct or has committed some other misconduct coupled with the fact that the petitioner was having about 28 years' of service on the day on which his services were terminated, I do not consider it to be a case where interference should be made by this Court in the Award made by the Labour Court.

5. In the result, this Special Civil Application

fails and the same is dismissed. Ad-interim relief granted by this Court stands vacated. However, it is made clear that the petitioner may make the payment of backwages awarded by the Labour Court to the workman, in five three monthly installments. Rule is discharged. No order as to costs.

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(sunil)